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SUPREME COURT, No. 73-504

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In the Supreme Court of the United States

OCTOBER TERM, 1973

OSWELL M. BRADLEY AND CAROL L. BRADLEY, INDIVIDUALLY, AND D/B/A BRADLEY BROTHERS CLEANERS AND LAUNDERERS, PETITIONERS

v.

PETER J. BRENNAN, SECRETARY OF LABOR

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

MEMORANDUM FOR THE RESPONDENT IN OPPOSITION

ROBERT H. BORK,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

WILLIAM J. KILBERG,
Solicitor of Labor,
Department of Labor,
Washington, D.C. 20210.

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After a trial before the court in the United States District Court for the Eastern District of Virginia, petitioners were found to have violated the Fair Labor Standards Act (29 U.S.C. 201, *et seq.*) and a judgment was entered ordering restitution and enjoining further violations (20 WH Cases 640). The court of appeals summarily affirmed by judgment entered on May 29, 1973 (Pet. App. 6a), and a timely petition for rehearing was denied on June 19, 1973 (Pet. App. 4a-5a). The petition was not filed until September 18, 1973, ninety-one days later, and, no extension of time having been sought or obtained, was thus beyond the jurisdictional time limit of 28 U.S.C. 2101(c).

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,
Solicitor General.

WILLIAM J. KILBERG,
Solicitor of Labor,
Department of Labor.

NOVEMBER 1973.

DOL-1973-11